

Remarks

This is in response to the non-final Office Action mailed on June 24, 2005. Claims 24-28, 31-37, and 39 remain pending, with claims 24, 31, and 36 being independent. Reconsideration and allowance are respectfully requested for the following reasons.

I. Claim Rejections - 35 U.S.C. § 102

In section 2 of the Action, claims 24, 25, 27, 31-34 and 36 were rejected under 35 U.S.C. § 102(b) as being anticipated by McCarthy, IE 80484 B3. This rejection is respectfully traversed, and reconsideration is requested for at least the following reasons.

A. Claims 24, 25, and 27

Claim 24 recites, among other limitations, a monitor module configured to automatically turn on when flames of the fireplace are generated to sense when an object enters a zone proximate to the fireplace.

McCarthy discloses an electronic fire guard that is manually turned on by power switch 5 to enter an armed mode. McCarthy, Figure 2; p. 5, ll. 12, 13, and 18-20; and p. 7, ll. 30 and 31. McCarthy fails to disclose or suggest that the electronic fire guard is configured to automatically turn on when flames of the fireplace are generated, because McCarthy requires the fire guard to be manually turned on by power switch 5 to enter an armed mode.

McCarthy therefore fails to disclose or suggest a monitor module that automatically turns on when flames of the fireplace are generated to sense when an object enters a zone proximate to the fireplace, as recited by claim 24.

The rejection states that McCarthy merely includes an additional component to regulate the power source that is always on in the instant application. Action, § 6(a). This characterization is respectfully traversed. Applicants do not argue that McCarthy includes an additional component to that claimed. Instead, applicants argue that McCarthy lacks an express limitation of the claim 24, namely a monitor module that automatically turns on when flames of the fireplace are generated to sense when an object enters a zone proximate to the fireplace.

Reconsideration and allowance of claim 24, as well as claims 25 and 27 that depend therefrom, are therefore respectfully requested for at least these reasons.

B. Claims 31-34

Claim 31 is directed to a fireplace including a capacitance module electrically coupled to the conductive area and tunable to match a capacitance of the conductive area, and an alarm module electrically coupled to the capacitance module to generate an alarm when an object enters a zone proximate the fireplace and thereby cause the capacitance of the conductive area to vary with respect to a capacitance of the capacitance module.

McCarthy discloses use of a microwave oscillator or passive infrared, short wave radar, or light emitter/receiver devices to detect motion. McCarthy, p. 6, ll. 1-23.

McCarthy fails to disclose or suggest a capacitance module electrically coupled to the conductive area and tunable to match a capacitance of the conductive area, as recited by claim 31. McCarthy also fails to disclose or suggest an alarm module electrically coupled to the capacitance module to generate an alarm when an object enters a zone proximate the fireplace and thereby cause the capacitance of the conductive area to vary with respect to a capacitance of the capacitance module, as recited by claim 31.

Reconsideration and allowance of claim 31, as well as claims 32-34 that depend therefrom, are respectfully requested.

C. Claim 36

Claim 36 is directed to a method for warning when an object approaches a fireplace. Claim 36 recites, among other limitations, turning on a monitor module automatically when the fireplace reaches a given temperature.

Since McCarthy discloses a guard that is manually turned on using a switch, McCarthy fails to disclose or suggest turning on a monitor module automatically when the fireplace reaches a given temperature, as recited by claim 36. Reconsideration and allowance of claim 36 are therefore respectfully requested for at least these reasons.

II. Claim Rejections - 35 U.S.C. § 103

In section 5 of the Action, claims 26, 28, 35, 37, and 39 were rejected under 35 U.S.C. § 103(a) as being unpatentable over McCarthy. This rejection is respectfully traversed, and the correctness of the rejection is not conceded.

However, claims 26, 28, 35, 37, and 39 all depend from one of claims 24, 31, and 36 and should be allowable for at least the same reasons as those provided herein for claims 24, 31, or 36, respectively. Reconsideration and allowance are respectfully requested.

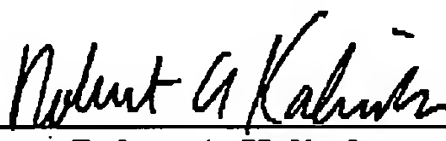
III. Conclusion

The remarks set forth above provide certain arguments in support of the patentability of the pending claims. There may be other reasons that the pending claims are patentably distinct over the cited references, and the right to raise any such other reasons or arguments in the future is expressly reserved.

Favorable reconsideration is respectfully requested. Please contact the undersigned attorney with any questions regarding this application.

Respectfully submitted,
MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, Minnesota 55402-0903
(612) 332-5300

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Name: Robert A. Kalinsky
Reg. No.: 50,471
RAK